

BEFORE THE STATE BOARD OF EDUCATION
STATE OF NEBRASKA

Matthew L. Blomstedt, Ph.D.
Commissioner of Education
301 Centennial Mall South
P.O. Box 94933
Lincoln, NE 68509-4933,

Petitioner,

v.

David Perilo
915 S. 117 Ct.
Omaha, NE 68154,

Respondent.

NDE Case No. 16-13

FINAL ORDER

This matter came before the State Board of Education ("State Board"), Lincoln, Nebraska, on August 5, 2016, upon the recommendation of the Nebraska Professional Practices Commission ("NPPC") that the public school certificate of the Respondent, David Perilo, be revoked for a period of five years. The parties were notified of the State Board's consideration in this matter. Appearing before the State Board was Brian L. Halstead, Deputy Commissioner, on behalf of the Commissioner of Education. The Respondent appeared on his own behalf. NPPC Clerk Kathi Vontz provided a summary of the NPPC's recommendation in this matter.

The record of the NPPC proceeding, containing the "Findings of Fact, Conclusions of Law, and Recommendation of the Commission," all of the pleadings, exhibits, and a written transcript of the NPPC hearing, was received by the State Board into evidence as "Exhibit 1." The Notice of Disposition and the certified return receipt were received into evidence as "Exhibit 2." Upon its independent review of the entire record, the State Board finds, concludes, and orders as follows:

1. The State Board has jurisdiction in this case pursuant to Neb. Rev. Stat. § 79-866 (2014);

2. The Petitioner is Matthew L. Blomstedt, Ph.D., Commissioner of Education, 301 Centennial Mall South, P.O. Box 94933, Lincoln, NE 68509-4933;

3. The Respondent is David Perilo, 915 S. 117 Ct., Omaha, NE 68154;

4. The Respondent holds a public Nebraska Initial teaching certificate number 2014008471, endorsed in Elementary Education K-6, with an expiration date of August 31, 2019;

5. The Respondent was employed by the Omaha Public Schools as an elementary teacher beginning with the 2014-2015 school year until his resignation was accepted by the Omaha School Board on April 20, 2015;

6. On August 4, 2015, the Respondent was found guilty in the Douglas County District Court of DUI 3rd Offense Aggravated, a Class IIIA Felony, and on October 28 was sentenced to three (3) years of Traditional Supervision Probation, which included serving 60 days in the Douglas County Jail, but was granted permission to participate in the Douglas County House Arrest Electronic Surveillance Program;

7. The Respondent has violated Neb. Rev. Stat. § 79-866(2) (2014) which states, in pertinent part: "The board may, for just cause, revoke or suspend any teacher's or administrator's certificate. Violation of the standards established pursuant to this section, commission of an immoral act, or conviction of a felony under the laws of this state shall constitute just cause for the revocation or suspension of a teacher's or administrator's certificate by the board"; Title 92, *Nebraska Administrative Code*, Chapter 27, Section 004.04E (effective date: November 12, 2003) ("the educator . . . shall not

commit any act of moral turpitude, or any felony under the laws of the United States or any state or territory, and shall not have a misdemeanor conviction involving abuse, neglect, or sexual misconduct as defined in Sections 003.12 through 003.14 of 92 NAC 21"); and Section 005.06D (same effective date) ("the educator . . . shall develop and maintain positive standards of conduct");

8. By a preponderance of the evidence, just cause exists pursuant to Neb. Rev. Stat. § 79-866(2) (2014) to revoke the Respondent's certificate for a period of five years; and

9. The public Nebraska Initial teaching certificate of David Perilo, certificate number 2014008471, endorsed in Elementary Education K-6, with an expiration date of August 31, 2019, shall be revoked for a period of five years beginning this date.

Dated this 5th day of August, 2016.

STATE BOARD OF EDUCATION

BY: Rachel Wise
Rachel Wise, President

The vote by the State Board of Education to approve the Final Order in Case No. 16-13, on August 5, 2016, was 8 in favor, 0 against, _____ abstaining, and _____ absent. Individual State Board members voted as follows:

IN FAVOR: L. LARSEN, G. FLINT, R. WISE, J. WITZEL, P. TIMM, M. NICKELS,
M. O'HOLLERAN, P. MCPHERSON

AGAINST: _____

ABSTAINING: _____

ABSENT: _____

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Final Order was served upon the Respondent by sending a copy to his attorney, James Schaefer, Gallup & Schaefer, 1001 Farnam St., 3rd Floor, Omaha, NE 68102, via United States mail; Kelly Muthersbaugh, NPPC Clerk, 301 Centennial Mall South, Lower Level, Lincoln, NE 68509, via interoffice mail; and Brian L. Halstead, Deputy Commissioner, Nebraska Department of Education, 301 Centennial Mall South, Sixth Floor, Lincoln, NE 68509, via interoffice mail, all on this 5th day of August, 2016.

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